



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Toshiyuki YAMAUCHI, et al.

Application No.: 10/821,973

Filed: April 12, 2004

For: CRYSTALS OF VITAMIN D DERIVATIVES AND A METHOD FOR...

Art Unit: 1617

Examiner: B. P. BADIO

Washington, D.C.

Atty.'s Docket: YAMAUCHI3B

Date: December 5, 2005

Confirmation No. 3087

THE COMMISSIONER OF PATENTS  
U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building, Mail Stop Amendment  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Transmitted herewith is a [XX] REPLY: RESTRICTION REQUIREMENT AND REMARKS in the above-identified application.

[ ] Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

[XX] No additional fee is required.

[ ] The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
x 25	\$		x 50	\$
x 100	\$		x 200	\$
+ 180	\$		+ 360	\$
ADDITIONAL FEE TOTAL		OR	TOTAL	
\$			\$	

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[ ] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

## Small Entity

## Response Filed Within

[ ] First - \$ 60.00  
[ ] Second - \$ 225.00  
[ ] Third - \$ 510.00  
[ ] Fourth - \$ 795.00

Month After Time Period Set

## Other Than Small Entity

## Response Filed Within

[ ] First - \$ 120.00  
[ ] Second - \$ 450.00  
[ ] Third - \$ 1020.00  
[ ] Fourth - \$ 1590.00

Month After Time Period Set

[ ] Less fees (\$ ) already paid for \_\_\_ month(s) extension of time on \_\_\_\_\_.

[ ] Please charge my Deposit Account No. 02-4035 in the amount of \$ \_\_\_\_\_.

[ ] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ \_\_\_\_\_.

[ ] A check in the amount of \$ \_\_\_\_\_ is attached (check no. ).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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Registration No. 25,884



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: YAMAUCHI3B

In re Application of:	)	Conf. No.: 3087
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Tsuyoshi YAMAUCHI	)	Art Unit: 1617
	)	
Appln. No.: 10/821,973	)	Examiner: B. P. BADIO
	)	
Filed: April 12, 2004	)	Washington, D.C.
	)	
For: CRYSTALS OF VITAMIN D...	)	December 5, 2005
	)	

REPLY TO RESTRICTION REQUIREMENT AND REMARKS

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Amendment  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

The Office Action mailed November 4, 2005, in the nature of a requirement for restriction, has been carefully reviewed. Favorable consideration is respectfully requested.

Restriction has been required among what the Examiner considers to be patentably distinct inventions, as follows:

- I. Group I, drawn to a method of purifying a compound of formula II, presently comprising claims 1 and 2;
- II. Group II, drawn to a compound of formula II or IV, presently comprising claims 3, 4 and 13;

III. Group III, drawn to a method of preparing a purified compound of formula I, presently comprising claims 5-11;

IV. Group IV, drawn to a compound of formula III, presently comprising claim 2.

During a telephone interview with Examiner Badio December 5, 2005, it was noted that a preliminary amendment filed May 12, 2004, included claims 14 and 15, directed to compounds in the pre form.

Applicant hereby elects claim 14 and 15.

If the election requirement is maintained, it will be clear on the record that the PTO considers the groups to be patentably distinct from one another i.e., *prima facie* non-obvious from one another. This means that a reference identical to the one group would not render the other group *prima facie* obvious.

Favorable consideration and examination of all pending claims on the merits are respectfully requested.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By



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